

FIFTEENTH DAY - JANUARY 29, 2003

LEGISLATIVE JOURNAL

**NINETY-EIGHTH LEGISLATURE
FIRST SESSION**

FIFTEENTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 29, 2003

PRAYER

The prayer was offered by Senator Redfield.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senators Cunningham, Engel, Landis, Maxwell, and Dw. Pedersen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 328, at the end of the page, insert "Pending."
The Journal for the fourteenth day was approved as corrected.

STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 66. Placed on General File.

(Signed) Ron Raikes, Chairperson

Health and Human Services

LEGISLATIVE BILL 55. Placed on General File as amended.
Standing Committee amendment to LB 55:
AM0082

- 1 1. On page 3, line 19, strike "and"; and in line 20
- 2 after "firefighter" insert ",and any civilian law enforcement
- 3 employee or volunteer".

LEGISLATIVE BILL 119. Placed on General File as amended.
Standing Committee amendment to LB 119:
AM0091

- 1 1. Strike the new matter beginning on page 7, line 4,
 2 through page 9, line 2, and insert the following new subsection:
 3 "(4)(a) The department shall have authority over the use,
 4 retention, and disposal of blood specimens and all related
 5 information collected in connection with metabolic disease testing
 6 conducted under subsection (1) of this section.
 7 (b) The department shall adopt and promulgate rules and
 8 regulations relating to the retention and disposal of such
 9 specimens. The rules and regulations shall: (i) Be consistent
 10 with nationally recognized standards for laboratory accreditation
 11 and shall comply with all applicable provisions of federal law;
 12 (ii) require that the disposal be conducted in the presence of a
 13 witness who may be an individual involved in the disposal or any
 14 other individual; and (iii) provide for maintenance of a written or
 15 electronic record of the disposal, verified by such witness.
 16 (c) The department shall adopt and promulgate rules and
 17 regulations relating to the use of such specimens and related
 18 information. Such use shall only be made for public health
 19 purposes with the written consent of the parent or guardian of the
 20 infant and shall comply with all applicable provisions of federal
 21 law. The department may charge a reasonable fee for evaluating
 22 proposals relating to the use of such specimens for public health
 23 research and for preparing and supplying specimens for research
 24 proposals approved by the department."
 1 2. On page 10, line 11, strike "medical" and show as
 2 stricken.

LEGISLATIVE BILL 138. Placed on General File as amended.
 Standing Committee amendment to LB 138:
 AM0088

- 1 1. On page 2, line 3, after "mind" insert "who is
 2 eighteen years of age or older"; in line 5 after "death" insert an
 3 underscored period; strike the new matter in lines 8 through 18;
 4 and reinstate the stricken matter in line 17.

(Signed) Jim Jensen, Chairperson

ANNOUNCEMENTS

Senator Brown designates LB 117 as her priority bill.

Senator McDonald designates LB 756 as her priority bill.

NOTICE OF COMMITTEE HEARINGS

Health and Human Services

Room 1510

LB 414	Wednesday, February 5, 2003	1:30 p.m.
LB 383	Wednesday, February 5, 2003	1:30 p.m.

LB 234	Wednesday, February 5, 2003	1:30 p.m.
LB 667	Wednesday, February 5, 2003	1:30 p.m.
LB 73	Thursday, February 6, 2003	1:30 p.m.
LB 546	Thursday, February 6, 2003	1:30 p.m.

(Signed) Jim Jensen, Chairperson

UNANIMOUS CONSENT - Member Excused

Senator McDonald asked unanimous consent to be excused until she returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 306. Senator Chambers withdrew his pending motion, found on page 328, to return to Natural Resources Committee.

Senators Schrock and Stuhr renewed their pending amendment, FA1150, found on page 329.

The Schrock and Stuhr amendment was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Senator Cunningham asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Stuhr offered the following amendment:
(Amendment, AM0119, is printed separately and available in the Bill Room, Room 1104.)

The Stuhr amendment was adopted with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 29 ayes, 3 nays, 13 present and not voting, and 4 excused and not voting.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 242. Placed on Select File as amended.
E & R amendment to LB 242:
AM7006

- 1 1. On page 14, line 27, strike "under" and insert "as
2 provided in".
- 3 2. On page 25, line 12, strike "a" and insert "the"; and
4 in line 27 before "the" insert "paying".
- 5 3. On page 26, line 10, after "and" insert "paying".
- 6 4. On page 28, line 4, strike "any", show as stricken,

- 7 and insert "the".
- 8 5. On page 29, line 22, after "collected" insert
- 9 "subject to section 28 of this act".
- 10 6. On page 33, line 6, after "and" insert ", for
- 11 placement on inactive status".
- 12 7. On page 40, line 28, after "credential" insert ", and
- 13 the credential shall be valid until the next subsequent renewal
- 14 date".
- 15 8. On page 41, line 18, strike "specified" and insert
- 16 "listed"; and in line 24 after "dollars" insert "in addition to the
- 17 renewal fee".
- 18 9. On page 42, lines 1 and 2 and 8 and 9, strike "in
- 19 addition to the renewal fee"; and in line 3 after "dollars" insert
- 20 "in addition to the renewal fee".
- 21 10. On page 65, line 17, strike "this section and" and
- 22 show as stricken.
- 23 11. On page 66, line 10, after "(1)" insert "(a)"; in
- 24 line 18 strike "(a)", show as stricken, and insert "(i)"; and in
- 1 line 26 strike "(b)", show as stricken, and insert "(ii)"; and
- 2 strike "(c)", show as stricken, and insert "(iii)".
- 3 12. On page 67, line 1, after the period insert
- 4 paragraphing and "(b)"; in line 2 after "(1)(a)" insert "(i)"; in
- 5 line 16 before "The" insert "(c)"; in line 17 strike "(1)(b)", show
- 6 as stricken, and insert "(1)(a)(ii)"; in line 19 strike "(A)", show
- 7 as stricken, and insert "(i)"; in line 21 strike "(B)", show as
- 8 stricken, and insert "(ii)"; and in line 26 after "(2)" insert
- 9 "(a)".
- 10 13. On page 68, line 1, strike "(a)", show as stricken,
- 11 and insert "(i)"; in line 10 strike "(b)", show as stricken, and
- 12 insert "(ii)"; in line 11 strike "(c)", show as stricken, and
- 13 insert "(iii)"; in line 13 strike "(d)", show as stricken, and
- 14 insert "(iv)"; in line 16 after the period insert paragraphing and
- 15 "(b)"; and in line 17 after "(2)(a)" insert "(i)".
- 16 14. On page 89, line 27, strike "subdivision", show as
- 17 stricken, and insert "subsection".
- 18 15. On page 116, line 12, strike "determine," show as
- 19 stricken, and insert an underscored comma.
- 20 16. On page 127, line 4, strike "Chapter 71", show as
- 21 stricken, and insert "the Health Care Facility Licensure Act"; in
- 22 line 23 after "fees" insert "as provided in section 71-162"; and in
- 23 line 27 strike the new matter.
- 24 17. On page 163, line 10, strike "(1)" and show as
- 25 stricken.
- 26 18. On page 167, lines 5 and 6, strike "for persons
- 27 certified under the act".

- 1 1. On page 1, lines 1 and 2, strike "sections 43-1716
 2 and" and insert "section"; in line 10 after "care" insert a comma;
 3 and in line 13 after "services" insert "system".
 4 2. On page 2, line 1; and page 45, line 15, strike the
 5 first comma.
 6 3. On page 19, line 10, after the semicolon insert
 7 "and".
 8 4. On page 32, line 14, after "(2)" insert "(a)"; in
 9 line 19 strike "(a)", show as stricken, and insert "(i)"; in line
 10 23 strike "(b)", show as stricken, and insert "(ii)"; and in line
 11 24 after the period insert paragraphing and "(b)".
 12 5. On page 45, line 9, strike "sections 43-1716 and" and
 13 insert "section".

LEGISLATIVE BILL 40. Placed on Select File as amended.
 E & R amendment to LB 40:
 AM7008

- 1 1. On page 3, lines 12 and 13, strike "for three-year
 2 terms" and show as stricken.

LEGISLATIVE BILL 69. Placed on Select File.

LEGISLATIVE BILL 83. Placed on Select File.

LEGISLATIVE BILL 92. Placed on Select File.

(Signed) Ray Mossey, Chairperson

NOTICE OF COMMITTEE HEARINGS

Revenue
 Room 1524

LB 220	Wednesday, February 5, 2003	1:30 p.m.
LB 290	Wednesday, February 5, 2003	1:30 p.m.
LB 516	Wednesday, February 5, 2003	1:30 p.m.
LB 644	Wednesday, February 5, 2003	1:30 p.m.
LB 689	Wednesday, February 5, 2003	1:30 p.m.
LB 676	Wednesday, February 5, 2003	1:30 p.m.
LB 108	Thursday, February 6, 2003	1:30 p.m.
LB 505	Thursday, February 6, 2003	1:30 p.m.
LB 506	Thursday, February 6, 2003	1:30 p.m.
LB 398	Thursday, February 6, 2003	1:30 p.m.
LB 399	Thursday, February 6, 2003	1:30 p.m.
LB 734	Thursday, February 6, 2003	1:30 p.m.

(Signed) David Landis, Chairperson

GENERAL FILE

LEGISLATIVE BILL 122. Title read. Considered.

The Standing Committee amendment, AM0017, found on page 285, was considered.

SENATOR CUDABACK PRESIDING

Senator Stuthman asked unanimous consent to be excused until he returns. No objections. So ordered.

The Standing Committee amendment was adopted with 28 ayes, 1 nay, 15 present and not voting, and 5 excused and not voting.

Senator Chambers renewed his pending amendment, FA1149, found on page 328.

Senators Foley and Hartnett asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 13 ayes, 0 nays, and 36 not voting.

The Chambers amendment lost with 2 ayes, 35 nays, 6 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Chambers offered the following amendment:

FA1151

On page 2, in lines 7-8, strike new language; in line 8 strike "fourteen" and insert "ten".

Pending.

STANDING COMMITTEE REPORTS **Business and Labor**

LEGISLATIVE BILL 194. Placed on General File.

LEGISLATIVE BILL 195. Placed on General File.

LEGISLATIVE BILL 199. Placed on General File as amended.

Standing Committee amendment to LB 199:

AM0118

- 1 1. On page 15, line 28, strike the new matter.
- 2 2. On page 16, lines 5 through 9, strike the new matter
- 3 and reinstate the stricken matter.

(Signed) Floyd P. Vrtiska, Chairperson

Banking, Commerce and Insurance**LEGISLATIVE BILL 128.** Placed on General File.**LEGISLATIVE BILL 130.** Placed on General File as amended.

Standing Committee amendment to LB 130:

AM0057

- 1 1. On page 7, strike beginning with "except" in line 13
- 2 through the comma in line 14; and in line 16 after "irrevocable
- 3 trust" insert "who have attained twenty-five years of age".
- 4 2. On page 49, line 5, strike "or" and insert "and".

LEGISLATIVE BILL 218. Placed on General File as amended.

Standing Committee amendment to LB 218:

AM0052

- 1 1. On page 8, lines 2 and 3, reinstate the stricken
- 2 matter.
- 3 2. On page 10, lines 8 and 25, strike the new matter and
- 4 reinstate the stricken matter; in line 9 reinstate the stricken
- 5 matter; and in lines 11 through 18 strike the new matter.
- 6 3. On page 11, lines 5 and 9, strike the new matter and
- 7 reinstate the stricken matter.

(Signed) Mark Quandahl, Chairperson

NOTICE OF COMMITTEE HEARINGS**Executive Board**

Room 2102

LB 598	Thursday, February 6, 2003	12:00 p.m.
LR 7CA	Thursday, February 6, 2003	12:00 p.m.
LR 1CA	Thursday, February 6, 2003	12:00 p.m.

(Signed) L. Patrick Engel, Chairperson

Government, Military and Veterans Affairs

Room 1507

LB 117	Wednesday, February 5, 2003	1:30 p.m.
LB 228	Wednesday, February 5, 2003	1:30 p.m.
LB 537	Wednesday, February 5, 2003	1:30 p.m.
LB 755	Wednesday, February 5, 2003	1:30 p.m.
LB 349	Thursday, February 6, 2003	1:30 p.m.
LB 261	Thursday, February 6, 2003	1:30 p.m.
LB 312	Thursday, February 6, 2003	1:30 p.m.
LB 433	Thursday, February 6, 2003	1:30 p.m.

LB 554	Thursday, February 6, 2003	1:30 p.m.
LB 762	Thursday, February 6, 2003	1:30 p.m.

(Signed) DiAnna R. Schimek, Chairperson

Judiciary
Room 1113

LB 313	Wednesday, February 5, 2003	1:30 p.m.
LB 421	Wednesday, February 5, 2003	1:30 p.m.
LB 489	Wednesday, February 5, 2003	1:30 p.m.
LB 699	Wednesday, February 5, 2003	1:30 p.m.
LB 722	Wednesday, February 5, 2003	1:30 p.m.
LB 751	Wednesday, February 5, 2003	1:30 p.m.
LB 760	Wednesday, February 5, 2003	1:30 p.m.
LB 761	Wednesday, February 5, 2003	1:30 p.m.
LR 20CA	Wednesday, February 5, 2003	1:30 p.m.

LB 38	Thursday, February 6, 2003	1:30 p.m.
LB 265	Thursday, February 6, 2003	1:30 p.m.
LB 669	Thursday, February 6, 2003	1:30 p.m.
LB 454	Thursday, February 6, 2003	1:30 p.m.
LB 694	Thursday, February 6, 2003	1:30 p.m.
LB 695	Thursday, February 6, 2003	1:30 p.m.

(Signed) Kermit A. Brashear, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 69A. Introduced by Smith, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 69, Ninety-eighth Legislature, First Session, 2003.

GENERAL FILE

LEGISLATIVE BILL 122. The Chambers pending amendment, FA1151, found in this day's Journal, was renewed.

Senator Aguilar asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The Chambers amendment lost with 0 ayes, 39 nays, 6 present and not

voting, and 4 excused and not voting.

The Chair declared the call raised.

Senators Brashear, Mines, and Vrtiska asked unanimous consent to be excused. No objections. So ordered.

Senator Chambers offered the following motion:
Reconsider the vote.

Pending.

STANDING COMMITTEE REPORTS

Revenue

LEGISLATIVE BILL 355. Placed on General File as amended.
Standing Committee amendment to LB 355:
AM0120

- 1 1. On page 4, line 14, strike "Some of the" and insert
- 2 "The individual's"; and in line 16 strike "but does not include"
- 3 and insert "except for".

(Signed) David Landis, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 102. Placed on General File.
LEGISLATIVE BILL 185. Placed on General File.
LEGISLATIVE BILL 186. Placed on General File.
LEGISLATIVE BILL 187. Placed on General File.

LEGISLATIVE BILL 101. Placed on General File as amended.
Standing Committee amendment to LB 101:
AM0123

- 1 1. On page 2, line 17, strike the new matter and
- 2 reinstate the stricken matter.

LEGISLATIVE BILL 371. Placed on General File as amended.
Standing Committee amendment to LB 371:
AM0106

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 60-1438, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 60-1438. (1) Each new motor vehicle manufacturer or
- 6 distributor shall specify in writing to each of its new motor
- 7 vehicle dealers licensed in this state the dealer's obligations for
- 8 preparation, delivery, and warranty service on its products. The
- 9 manufacturer or distributor shall compensate the new motor vehicle

10 dealer for warranty service which such manufacturer or distributor
11 requires the dealer to provide. The manufacturer or distributor
12 shall provide the new motor vehicle dealer with the schedule of
13 compensation to be paid to the dealer for parts, work, and service
14 and the time allowance for the performance of the work and service.

15 (2) The schedule of compensation shall include reasonable
16 compensation for diagnostic work, as well as repair service, parts,
17 and labor. Time allowances for the diagnosis and performance of
18 warranty work and service shall be reasonable and adequate for the
19 work to be performed. In the determination of what constitutes
20 reasonable compensation under this section, the principal factors
21 to be given consideration shall be the prevailing wage rates being
22 paid by dealers in the community in which the dealer is doing
23 business, and in no event shall the compensation of the dealer for
24 warranty parts and labor be less than the rates charged by the
1 dealer for like parts and service to retail or fleet customers, as
2 long as such rates are reasonable.

3 (3) A manufacturer or distributor shall not do any of the
4 following:

5 (a) Fail to perform any warranty obligation;
6 (b) Fail to include in written notices of factory recalls
7 to new motor vehicle owners and dealers the expected date by which
8 necessary parts and equipment will be available to dealers for the
9 correction of the defects; or

10 (c) Fail to compensate any of the new motor vehicle
11 dealers licensed in this state for repairs effected by the recall.

12 (4) All claims made by a new motor vehicle dealer
13 pursuant to this section for labor and parts shall be paid within
14 thirty days after their approval. All claims shall be either
15 approved or disapproved by the manufacturer or distributor within
16 thirty days after their receipt on a proper form generally used by
17 the manufacturer or distributor and containing the usually required
18 information therein. Any claim not specifically disapproved in
19 writing within thirty days after the receipt of the form shall be
20 considered to be approved and payment shall be made within thirty
21 days. The manufacturer has the right to audit the claims for two
22 years after payment and to charge back to the new motor vehicle
23 dealer the amount of any false, fraudulent, or unsubstantiated
24 claim.

25 (5) The warranty obligations set forth in this section
26 shall also apply to any manufacturer of a new motor vehicle
27 transmission, engine, or rear axle that separately warrants its
1 components to customers.

2 Sec. 2. Original section 60-1438, Reissue Revised
3 Statutes of Nebraska, is repealed."

LEGISLATIVE BILL 82. Indefinitely postponed.

(Signed) Tom Baker, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Senator Jones asked unanimous consent to have his name added as cointroducer to LB 123. No objections. So ordered.

VISITORS

Visitors to the Chamber were Ilene Grossman and Tim Anderson from Chicago; and 50 twelfth-grade students and teachers from Syracuse.

ADJOURNMENT

At 12:01 p.m., on a motion by Senator Price, the Legislature adjourned until 9:00 a.m., Thursday, January 30, 2003.

Patrick J. O'Donnell
Clerk of the Legislature

